A bill for an act

relating to human services; establishing an e-prescribing demonstration project; requiring fee-for-service drug coverage; establishing a utilization review program for ADHD and ADD medications; requiring a report; amending Minnesota Statutes 2008, sections 256B.0625, subdivision 13, by adding a subdivision; 256B.69, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 256.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[256.9652] E-PRESCRIBING INITIATIVE.**

(a) The commissioner shall implement a demonstration project that incorporates e-prescribing applications with a clinical information database in order to increase patient safety and efficiencies and reduce medication errors, duplication of therapies, and eliminate waste.

(b) The commissioner shall identify providers who are currently using e-prescribing and who are high-volume prescribers. The commissioner shall ensure that each provider identified has the ability through e-prescribing software to receive the following:

(1) a patient's specific medication history for the last 100 days;

(2) the preferred drug list and formulary verification;

(3) prescription details; and

(4) drug interaction alerts.

(c) Beginning January 1, 2010, each provider identified by the commissioner shall use the e-prescribing applications for each prescription.

(d) The commissioner shall evaluate the project in terms of the number of prescriptions written by the providers participating in the demonstration project.

The evaluation shall include a comparison between participating providers and nonparticipating providers in terms of:

(1) number of prescriptions written per patient; and

(2) average cost of the prescriptions written per patient.

The results of the evaluations shall be submitted to the legislature by March 15, 2011.

Sec. 2. Minnesota Statutes 2008, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **Drugs.** (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless authorized by the commissioner.

(c) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals.

(d) Effective January 1, 2006, medical assistance shall not cover drugs that are coverable under Medicare Part D as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e), for individuals eligible for drug coverage as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-1(a)(3)(A). For these individuals, medical assistance may cover drugs from the

drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to this subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code, title 42, section 1396r-8(d)(2)(E), shall not be covered.

(e) Effective January 1, 2010, prescription drug coverage shall be covered on a fee-for-service basis according to subdivisions 13 to 13h, except as specified in section 256B.69, subdivision 6, paragraph (c).

Sec. 3. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 13i. **Utilization drug review for children.** (a) The commissioner shall establish a utilization review program for attention deficit/hyperactivity disorder (ADHD) and attention deficit disorder (ADD) medication and psychotropic medication prescribed to children.

(b) The program shall require prior authorization for ADHD medication prescribed to children under five years of age and a second opinion from a commissioner-approved provider.

(c) The program shall require a second opinion from a commissioner-approved provider for children five years of age and under 18 years of age for ADHD medications that exceed the following dosages:

(1) methylphenidates 120 mg/day;

(2) dexmethylphenidates 60 mg/day;

(3) amphetamines 60 mg/day; and

(4) Strattera 120 mg/day.

(d) The commissioner shall require prior authorization and a second opinion from a commissioner-approved provider when a child under 18 years of age is prescribed more than one type of medication identified in paragraph (c) at one time.

(e) The commissioner shall require a second opinion from a commissioner-approved provider if any of the following conditions apply:

(1) the absence of a DSM-IV diagnosis in the child's claim record;

(2) five or more psychotropic medications prescribed concomitantly after 60 days;

(3) two or more concomitant antipsychotic medications after 60 days;

(4) three or more concomitant mood stabilizer medications for a mental health diagnosis after 60 days;

(5) the prescribed psychotropic medication is not consistent with appropriate care for the child's diagnosed mental disorder or with documented target symptoms associated with a therapeutic response to the medication prescribed; and

(6) psychotropic medications prescribed for children under five years of age.

(f) The commissioner may establish threshold amounts for identified psychotropic medications that, if exceeded, may require a second opinion from a commissioner-approved provider.

Sec. 4. Minnesota Statutes 2008, section 256B.69, subdivision 6, is amended to read:

Subd. 6. **Service delivery.** (a) Except as provided in paragraph (c), each demonstration provider shall be responsible for the health care coordination for eligible individuals. Demonstration providers:

(1) shall authorize and arrange for the provision of all needed health services including but not limited to the full range of services listed in sections 256B.02, subdivision 8, and 256B.0625 in order to ensure appropriate health care is delivered to enrollees. Notwithstanding section 256B.0621, demonstration providers that provide nursing home and community-based services under this section shall provide relocation service coordination to enrolled persons age 65 and over;

(2) shall accept the prospective, per capita payment from the commissioner in return for the provision of comprehensive and coordinated health care services for eligible individuals enrolled in the program;

(3) may contract with other health care and social service practitioners to provide services to enrollees; and

(4) shall institute recipient grievance procedures according to the method established by the project, utilizing applicable requirements of chapter 62D. Disputes not resolved through this process shall be appealable to the commissioner as provided in subdivision 11.

(b) Demonstration providers must comply with the standards for claims settlement under section 72A.201, subdivisions 4, 5, 7, and 8, when contracting with other health care and social service practitioners to provide services to enrollees. A demonstration provider must pay a clean claim, as defined in Code of Federal Regulations, title 42, section 447.45(b), within 30 business days of the date of acceptance of the claim.

(c) Effective January 1, 2010, a demonstration provider shall not authorize or arrange prescription drug coverage described under section 256B.0625; 256D.03, subdivision 4; or 256L.03 as part of the comprehensive health care services that are required to be provided by the demonstration provider under this section. Prescription drug coverage shall be provided on a fee-for-service basis according to section 256B.0625. This paragraph does not apply to integrated Medicare and Medicaid programs operating under subdivisions 23 and 28. This paragraph does not apply to physician-administered drugs. A demonstration provider shall continue to provide the commissioner with clinic information.